
**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**Farend Services Ltd d/b/a
Dazzle Smile**

DCP Case #68283

Respondent

ADMINISTRATIVE CITATION

* * * * *

PURSUANT TO THE AUTHORITY granted by UTAH CODE ANNOTATED §13-2-6(3), as amended, which empowers the Division of Consumer Protection to issue a citation upon any person reasonably believed to be engaged in the violation of any statute listed in UTAH CODE ANNOTATED §13-2-1, as amended, it appears, upon information and belief, that you are in violation of the *Consumer Sales Practices Act*, UTAH CODE ANNOTATED §13-11-4 *et seq.* In particular, the Division of Consumer Protection alleges:

1. That on or about July 17, 2009, W. Del Yates of Salt Lake City noticed an ad on KSL.com Classifieds. The ad was entitled "Don't Pay For White Teeth" "Learn the trick discovered by a mom to turn yellow teeth white for less than \$5". Mr. Yates clicked on the ad and was taken to www.momswhteningsecret.com, where he was sent to two other websites. On these websites, Mr. Yates signed up for a "Free Trial" of teeth whitening products. Mr. Yates was charged for the free trial and then other charges from these two companies. When I clicked on www.momswhteningsecret.com, I found another teeth whitening product website. This website is operated by Farend Services Ltd, selling a product named Dazzle Smile (DS).
2. That on the DS website Respondent claims to have sponsorship, approval, performance characteristics, accessories, uses, or benefits, which it does not. The PW website order

page shows the following company logos, as though they were sponsoring this product, which they are not: CNN.com, USATODAY.com, MSNBC.com, FOXNEWS.com, and MSN.

3. That on the DS website the Respondent indicates that the subject of the consumer transaction is available to the consumer for a reason that does not exist. On the landing page there are qualification questions to see if someone would qualify to purchase the product. No matter what zip code is put in it states, "Congratulations! You've qualified for our TRIAL OFFER!" Once a person puts his identifying information in and clicks to the order page it states, "HURRY! TRIALS ARE GOING FAST"

(Count 1) The above action is in violation of the *Consumer Sales Practices Act*, UTAH CODE ANNOTATED §13-11-4, Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have.

(One Count-Potential Fine \$2,500)

(Count 2) The above actions are in violation of the *Consumer Sales Practices Act*, UTAH CODE ANNOTATED §13-11-4, Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

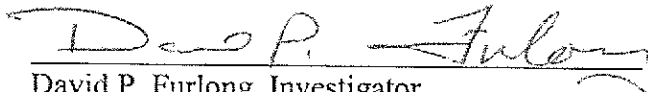
(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist;

(One Count-Potential Fine \$2,500)

(Total Two Counts-Potential Fine \$5,000)

THIS CITATION ISSUED this the 17th day of September 2009

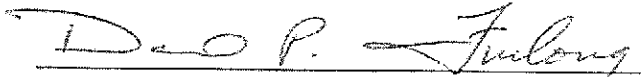


David P. Furlong, Investigator
Utah Division of Consumer Protection

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the undersigned duly mailed by regular mail and certified mail a true and exact copy of the above and foregoing Administrative Citation to the following:

FAREND SERVICES LTD
DAZZLE SMILE
PO BOX 10276
DES MOINES IA 50381



David P. Furlong, Investigator
Utah Division of Consumer Protection

IMPORTANT NOTICE - READ CAREFULLY

This citation may be contested by filing a request for a hearing, in writing, within ten (10) days from receipt of this citation. Such hearing shall be conducted as an informal hearing under Title 63, Chapter 46b, of the Administrative Procedures Act. A citation which is not so contested becomes the final order of the Division and is not subject to further agency review. In addition to any fines which might be levied, a cease and desist order shall be entered against you. An intentional violation of a final cease and desist order is a third degree felony pursuant to Utah Code Annotated 13-2-6(2) as amended. If you desire a hearing on this citation you may mail your request to:

Kevin V. Olsen, Director
Utah Division of Consumer Protection
PO Box 146704
Salt Lake City, UT 84114-6704

Please be advised that all inquiries, correspondence, or other contacts concerning this citation, with the exception of any written request for hearing as set out above, should be directed to the below named Division employee, designated by the Director of the Division of Consumer Protection pursuant to UTAH CODE ANNOTATED §13-2-6(3)(a)(iv) and §63-46b-3(2)(a)(i)(1953), as amended:

David P. Furlong, Investigator
Utah Division of Consumer Protection
160 East 300 South
PO Box 146704
Salt Lake City, UT 84114-6704
Telephone: (801) 530-6601

**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

RECEIVED

NOV 30 2009

**DIVISION OF
CONSUMER PROTECTION**

In the matter of:)

) SETTLEMENT

Farend Services Ltd d/b/a) AGREEMENT

Dazzle Smile)

)

Respondent) DCP Case No. **68283**

The Utah Division of Consumer Protection ("Division") and Farend Services Ltd d/b/a Dazzle Smile ("Respondent"), enter into the following Settlement Agreement.

1. Respondent's Identity. Respondent Farend Services Ltd is an Iowa company that has conducted some of its business in Utah.
2. Jurisdiction. Respondent acknowledges the jurisdiction of the Division over the parties and subject matter of the above referenced matter.
3. Agency Action. The Division has investigated the conduct of the Respondent and issued an administrative citation alleging violations of the Utah Consumer Sales Practices Act. The citation could have carried a potential maximum fine of \$5,000.00.
4. Obligations of the Division. The Division, without making a specific finding of wrongdoing, assesses a fine of \$5,000.00 against the Respondent, but suspends \$4,500.00. Upon full compliance with the terms of this Settlement Agreement, the Division will cancel the suspended portion of the fine and will immediately and automatically dismiss the citation. If the Respondent violates any of the terms of this Settlement Agreement during the one (1) year period immediately following the date of this Settlement Agreement, the Division shall reinstate the suspended portion of the fine and order the Respondent to pay that fine amount of \$4,500.00.
5. Obligations of Respondent. The Respondent wishes to resolve these matters without further administrative action. Respondent shall do the following:
 - a. Pay a fine of \$500.00 to the Division upon signing this Settlement Agreement.

- b. Provide a refund to all Utah consumers the Division verifies to be due a refund within one (1) year of the date of this Settlement Agreement. In the event the Respondent can demonstrate to the Division that any Utah consumer has received monies from third parties that reduces the amount of any of their claimed damages, including without limitation, charge back on credit cards used to purchase services from Respondent, such amounts shall reduce, dollar for dollar, the amount owed to such consumer under this agreement.
- c. Comply with all provisions of the Utah Consumer Sales Practices Act in all business transactions involving Internet sales of Respondent's teeth whitening product to Utah consumers. If there is a finding of a violation of the Utah Consumer Sales Practices Act, based upon a new Utah customer sales transaction which occurred after the date of this Settlement Agreement, and within one (1) year of the date of this Settlement Agreement, then Respondent shall pay the suspended fine amount of \$4,500.00.

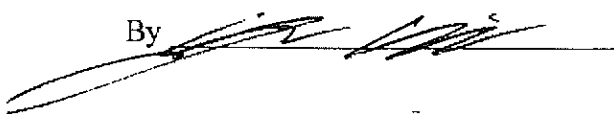
6. Actions by Other Parties. This Settlement Agreement does not affect the civil claims of parties other than the Division; nor does it preclude any other criminal, administrative or civil enforcement actions by any agencies having jurisdiction over the Respondent and its actions.


7. Voluntary Nature of Settlement Agreement. Respondent has entered into this Settlement Agreement freely and voluntarily without any undue influence of the Division. Respondent specifically denies any wrongdoing. This agreement constitutes the complete and final agreement between Respondent and the Division and incorporates all discussions and understandings heretofore undertaken between the parties and their representatives.

Dated this 19 day of Nov, 2009 Dated this 30 day of Nov, 2009

Farend Services Ltd Utah Division of Consumer Protection

By




KENT NELSON, CHIEF INVESTIGATOR

Its

President

160 East 300 South

PO Box 146704

Salt Lake City, UT 84114

Telephone: (801) 530-6601

Facsimile: (801) 530-6001